IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR

O R D E R

S.B. CIVIL WRIT PETITION NO. 2512/2002

SHRI SUKHLESHWAR MAHADEV MANDIR TRUST
Vs.
COMMISSIONER, DEVASTHAN DEPARTMENT, UDAIPUR & ORS.

DATE: 26.10.2007.

HON'BLE MR. JUSTICE K.S. RATHORE

Mr. A.K. Pareek for the petitioner.
Mr. B.S. Chhaba, Dy. GA for the State.
Mr. Tanveer Ahmed for
Mr. Bhanwar Bagri for the respondent No.3

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In brief the facts of the case are that the temple of Shri Sukhleshwar Mahadev is situated at Village Bordhamal, Tehsil Keshavrai Patan, District Bundi. As the temple is old and not properly looked after and maintained, therefore the villagers of village Bordhamal having vital interest of Seva Pooja in the temple, constituted a trust and applied for its registration and submitted a proper application in the prescribed form i.e. Form No. 6 under Section 17(2) of the Rajasthan Public Trust Act, 1959 (for short 'the Act of 1959') before the Assistant Commissioner, Devasthan Department, Kota, who issued notices to the parties

concerned and after perusal of the documentary as well as oral evidence, the Assistant Commissioner, Devasthan Department vide its order dated 04.07.2000, registered the temple of Shri Sukhleshwar Mahadev as public trust.

Against the said order of the Assistant Commissioner, Devasthan Department dated 04.07.2000, the respondent No.3 Sohan Lal filed an appeal before the Commissioner, Devasthan Department Udaipur, who vide its judgment dated 25.02.2002, partly allowed the appeal filed by the respondent No.3 and amended the order dated 04.07.2000 passed by the Assistant Commissioner, Devasthan Department, Kota to the extent that the appellant/respondent No.3 Sohan Lal will be the Chief Managing Trustee being Pujari of the temple and appointment of the Managing Trustee will be on the basis of inheritance and thus, the respondent No.3 Sohan Lal becomes hereditary managing trustee.

Aggrieved and dissatisfied with the aforesaid judgment dated 25.07.2002 passed by the Commissioner, Devasthan Department, Udaipur, the present writ petition has been preferred by the petitioner on the ground that Devasthan Commissioner has seriously erred in declaring the respondent No.3 Sohan Lal as Chief Hereditary Trustee under the provisions of Section 20 of the Act of

1959 and the Devasthan Commissioner has got no jurisdiction to declare the respondent No.3 as Chief Hereditary Trustee and the impugned order passed by the Devasthan Commissioner is not only contrary to the provisions of the Act of 1959 but also contrary to the facts and circumstances available on record as the respondent No.3 at the most is Pujari of the temple and having right of Seva Pooja only, but Pujari cannot be appointed as Chief Hereditary Trustee.

It is also contended that the order passed by the Devasthan Commissioner shall create difficulty as two working Trustees have been appointed by the order of the respondent No.1 i.e. Commissioner, Devasthan Department, Udaipur, who shall manage the affairs of the temple on behalf of the Trust.

The petitioner has also challenged the impugned order on the ground that the Assistant Devasthan Commissioner has rightly hold that the managing trustee should be appointed by way of election held amongst the members of the Trust.

Learned counsel for the petitioner also strongly averred that no evidence is ever produced by the respondent No.3 Sohan Lal as to how he is entitled to be appointed as Chief Hereditary Trustee, although

Seva Pooja performed by the ancestors of the respondent No.3 is not disputed.

On behalf of the respondents, it is contended that the respondent No.3 Sohan Lal is able to prove that his ancestors have performed Seva Pooja and maintained the temple at their own. Further the annuity fund is paid by the Devasthan Department and the name of respondent No.3 Sohan Lal is also entered in the revenue record and since it is not disputed that ancestors of respondent No.3 have performed Seva Pooja in the temple, the respondent No.3 is having vital interest in the affairs of the temple and has rightly been appointed as Chief Hereditary Trustee.

I have heard rival submissions of the respective parties and gone through the order dated 04.07.2000 passed by the Assistant Commissioner, Devasthan Department, Kota and the order dated 25.02.2002 passed by the Commissioner, Devasthan Department, Udaipur. I have also carefully perused the relevant provisions of law as well as the documents annexed with the writ petition.

Upon careful perusal of the order impugned, it is not disputed that the Trust has been registered and so far as registration of the Trust is concerned, the

respondent No.3 has no objection.

The Devasthan Commissioner having considered the aspect that the Trustee is custodian of the Trust property and being a Pujari also, the respondent No.3 Sohan Lal is the custodian of the temple and is regularly performing Seva Pooja and appointment of Pujari through inheritance has also been proved and since resumption of Jagir, Pujari respondent No.3 Sohan Lal is receiving the amount of annuity, which is also established by the documents issued by the Commissioner, Devasthan Department.

It is also not disputed that the temple is public temple and thus, the public trust has rightly been registered by the Assistant Commissioner, Devasthan Department, Kota and as respondent No.3 Sohan Lal is also having vital interest in temple and is performing Seva Pooja, I find no illegality in appointment of respondent No.3 as Chief Hereditary Trustee and the order passed by the Commissioner, Devasthan Department, Udaipur dated 25.02.2002 amending the order dated 04.07.2000 passed by the Assistant Commissioner, Devasthan Department, Kota requires no interference by this Court as no illegality has been committed by the Commissioner, Devasthan Department, Udaipur.

Consequently, the writ petition fails and the same is hereby dismissed.

The ex parte interim order dated 09.05.2002 granted by this Court stands rejected. The stay application also stands dismissed.

(K.S. RATHORE),J.

/KKC/